not so material to the question under reply.

MR. T. MARIAPPA.—Was not this the same officer who was for some time in charge of the Babbur Farm when similar complaints were made against him in this Assembly ?

MR. S. P. RAJAGOPALACHARI.—I do not know.

MR. T. MARIAPPA.—If there are so many complaints against that particular officer, is it not desirable to transfer him to some other place ?

MR. S. P. RAJAGOPALACHARI.—The member is only repeating a question which has been disallowed by the President.

MR. M. C. LINGE GOWDA.—Has it come to the notice of the Government that this officer accepted cane from private parties who had not obtained seedlings from the company ?

MR. N. MADHAVA RAO.—That was in accordance with the decision of the Board of Directors.

MR. M. C. LINGE GOWDA.—Is it a fact that cane was accepted by him from parties who did not even own lands of their own ?

MR. N. MADHAVA RAO.—There is nothing to prevent the factory from accepting cane from any suppliers provided it is good in quality and is supplied when it is wanted.

MR. M. C. LINGE GOWDA.—If cane is accepted from persons who have not obtained seedlings from the factory, will it not put to loss other cane-growers who had obtained seedlings from the factory ?

MR. N. MADHAVA RAO.—I do not think that there can be any grievance on that account.

MR. M. C. LINGE GOWDA.—Has the factory notified that cane would be accepted from all people ?

MR. S. P. RAJAGOPALACHARI.—The company requires several thousands of tons of cane. It should therefore be left to the company to decide how best to secure such large quantities.

MR. M. C. LINGE GOWDA.—Will the Government enquire whether there is a grievance of the kind represented or not ?

MR. S. P. RAJAGOPALACHARI.—Yes.

MR. H. B. GUNDAPPA.—In view of the large number of charges of a grave nature levelled against the officer concerned, will the Government be pleased to take necessary explanations from him and decide how far it would be desirable to continue him in service ?

MR S. P. RAJAGOPALACHARI.—What action should be taken or not in the matter should be left to Government themselves.

MR. S. K. VENKATARANGA IYENGAR.—In view of the fact that the allegations made against this officer have been found to be baseless, as stated in the answer, will the Government consider the question of ordering a prosecution in the case ?

MR. S. P. RAJAGOPALACHARI.—It is not a request for information.

MR. S. K. VENKATARANGA IYENGAR.—If irresponsible allegations are made against officers of Government, their work becomes very difficult. In order to show that people should not make such reckless charges, is it not desirable to order a prosecution even now ?

MR. S. P. RAJAGOPALACHARI.—It is a matter of opinion.

MR. S. K. VENKATARANGA IYENGAR.—Was the investigation held a departmental investigation as opposed to judicial ?

MR. S. P. RAJAGOPALACHARI.—Notice.

MR. S. K. VENKATARANGA IYENGAR.—Was it a confidential or open investigation ?

MR. K. MATTHAN.—I do not think we need go into those matters now.

GOVERNMENT BUSINESS—BILLS. (*contd*).

VI. Statement of General Principles of the Bill to Amend the Mysore Agriculturists' Relief Regulation, 1928.

THE GENERAL SECRETARY TO GOVERNMENT (MR. H. V. RAMASVAMI) explained the general principles of the Bill as follows :—

" In September 1934, a committee was appointed by the Government under the Chairmanship of *Rajasabhabhushana*

K. R. Srinivasa Iyengar, M.A., to examine how far the extension of the Mysore Agriculturists' Relief Regulation to the whole State has affected the credit of the agriculturists and to submit a report to Government. The committee examined the question and submitted to Government in February 1935 an exhaustive report together with the draft of a Bill embodying their recommendations.

"Government have approved of the recommendations of the committee with slight modifications as ordered in Government Order No. P. 6404-16—Legis 12-34-1, dated 23rd May 1935 and this Bill is intended to secure the amendment of the Regulation on those lines.

"The general principles of the proposed amendments to the Bill are as follows :—

"Under the Regulation, the court is empowered to grant instalments at the time a mortgage decree is passed or in execution proceedings under such decree and also in execution proceedings under a money decree. There is no specific provision empowering a court to direct payment by instalments when passing a money decree, though it may be said that it may exercise such power vested in it under the Civil Procedure Code, in case of suits under this Regulation also. It is proposed to amend Section 12 so as to include specifically such a power.

"2. The existing discretionary power of courts to order interest or not under Sections 11 and 12 of the Regulation, is proposed to be modified so as to make it obligatory to grant some future interest in all cases, the rate of interest being, however, left to be determined by the courts.

"3. The Bill provides for the addition of a new provision laying down that, in fixing instalments under Sections 11 and 12 of the Regulation, the courts should be required to take into consideration the period that the loan has been outstanding and also the repaying capacity of the judgment-debtor.

"4. The courts will be empowered to direct that in the event of failure to pay two consecutive instalments, the whole debt should become due and be recoverable.

"5. Exemption from attachment and sale in execution of a money decree under Section 14 is proposed to be limited to the agricultural land only of the debtor, and the other immovables would not be so exempt. Provision is made to direct attachment and sale of the agricultural land also or declare a charge thereon in cases where payment by instalment is ordered and the debtor is unable to furnish security. The sale in pursuance of an attachment or charge will be ordered only when default is made in the payment of two consecutive instalments.

"6. Power will be vested in the Government to exempt particular co-operative societies or classes of co-operative societies at their discretion from the operation of the provisions of the Regulation."

Mr. B. Srinivasa Rao, in opposing the measure under discussion, said that the agriculturist was passing through very difficult times and the amendment proposed would only add to his difficulties. It would be very hard on an indebted raiyat if he were to be proceeded against for recovery of the entire amount simply because two successive instalments remained unpaid. The speaker said that the proposed measure, if considered necessary at all, might be postponed for another two years by which time perhaps the position would have improved. He added that if a charge was declared for the full amount of the loan, the debtor would only think of alienating the land and deceiving not only the decree-holder but also the subsequent alienee.

Mr. H. R. Guruva Reddy did not support the proposed modification of the law so as to make it obligatory on the court to grant future interest. If the Government were prepared to allow the rate of interest to be decided at the discretion of the court, he did not know why the entire question whether future interest should be given, and if so at what rate, should also not be left to be decided by the court at its discretion as that alone had the best means

of ascertaining the equities between parties.

He also wanted that the two instalments referred to in paragraph 4 of the statment of general principles should be clarified as meaning two consecutive annual instalments since the income of an agriculturist was only annual. He further objected to the entire decretal amount becoming due in case of default of two consecutive annual instalments since that was penal in its nature and opposed to the principles of relief and worked as a great hardship on the agriculturist.

With regard to the declaration of a charge on the landed property of the debtor, he stated that a charge would create an unnecessary burden on the estate of the agriculturist which was not contemplated by the law of the land even if the proposed measure was not in force. An attachment of the property would suffice and the word 'charge' should be deleted since it would result in fraud on creditors themselves. He wanted it to be specified, further, that only such portion of the property as was sufficient to satisfy the decretal amount should be attached. As at present proposed, the entire property was liable to be attached and this would surely act as a great hardship on the debtor. He wanted that no exception be made in the case of lands which might have been attached earlier than the decree in question. In this connection he reminded the Government of the promise they had made at the time the Agriculturists' Relief Regulation was first discussed in the Assembly, namely that the creditor would only be entitled to the receipts of auction sale of the attached property. But now it was sought to declare a 'charge' on the land in favour of the creditor. This, he thought, would lead to many legal complications and inconveniences to the raiyat. He thought that the creation of a charge was too drastic a step to be taken against a raiyat. He had no quarrel with the first portion of the statement but with regard to the portion relating to the declaration of charge, he wanted that it should be altogether deleted.

Proceeding, he said that a decree-holder might not be the only creditor of the judgment-debtor. If a charge was going to be declared on the landed property of the raiyat, he might collude with one of his other creditors so that all other creditors would be denied the benefit of even a rateable distribution which they would otherwise have got.

In the next place, it was also proposed to permit of attachment of any immovable property of the debtor other than the agricultural land. In other words, the creditor could attach and sell the only house which the agriculturist might happen to own. If this was sold away, the agriculturist would no longer be able to pursue his agricultural operations and this in effect would mean his ruination. The speaker therefore suggested that a house of an agriculturist should be permitted to be attached only if he had another permanent dwelling house of his own.

He next said that so long as it was proposed to declare an attachment on the immovable property of the judgment-debtor to the extent of the entire amount due to the creditor, there was no necessity to empower the decree-holder to collect the entire amount due in case of default of two consecutive instalments. So long as the attachment subsisted, the creditor would have nothing to lose by recovering only the instalments overdue. For this reason, the speaker suggested that even in execution of a decree only the overdue instalments should be permitted to be recovered and not the entire debt.

He did not also agree with the last paragraph of the statement of general principles in respect of exempting co-operative societies from the operation of the provisions of the Regulation. He would, however, have no objection to special concessions being given to them, being a better class of creditors than private money-lenders. But he was not in favour of granting total exemption.

In conclusion, he suggested that Section 24 of the Regulation be altogether deleted, because it gave opportunities to creditors to proceed against their debtors on the basis of

even discharged documents. It was common experience that though the full amounts mentioned in the documents would have been repaid by villagers, they were not particular about getting back the documents executed by them. The speaker said that under Section 24 the creditor would have the benefit of the period mentioned in the document for purposes of repayment *plus* double the period of limitation specified in the Limitation Regulation. The creditors would thus have as long a period as 18 years to file suits on certain bonds, which was indeed too long and which, he feared, would result in fraud.

He finally requested that the general principles be modified as stated above in case the Bill should be passed.

MR. M. A. GOPALASWAMIENGAR observed that the committee appointed by the Government under the chairmanship of *Rajasabhabhushana* K. R. Srinivasa Iyengar had explored ways of giving security to the unsecured creditor, but did not consider how the agriculturist-debtor could be helped. The question whether the agriculturists had enough facilities to repay their debts or not should have been also examined. That was the idea with which the committee was appointed. Order XXX, Rule 11, was that in regard to decree for repayment of money the court might, for sufficient reason shown, order that the repayment might be postponed or made by instalments with or without interest notwithstanding anything contained in the contract under which the money was payable. Under the existing law, future interest might or might not be ordered to be paid. But if the proposed amendment was accepted, the court would be bound to order payment of future interest also, discretion being allowed to it only so far as the rate of interest was concerned. This presumed that the judgment-debtor was always capable of repaying the amount and also future interest. The amendment therefore was less liberal than the provision in the Civil Procedure Code which permitted of certain concessions. Secondly, whereas under the Civil Procedure Code, if the judgment-debtor did not pay the decree amount, the decree-holder could either attach the immovable property or put the man in jail, the amendment would only add to the difficulties of the agriculturist. In the third place, the amendment sought to permit of even attachment before judgment, a step which under the Civil Procedure Code the court would not concede unless certain conditions were fulfilled. Attachment before judgment was a facility to be given to the plaintiff under extraordinary circumstances, but under the proposed amendment it would become almost the ordinary rule.

THE SECOND MEMBER (*Rajamantrapravina* S. P. RAJAGOPALACHARI) reminded the member that that was not the position. Attachment before judgment would generally be current with or subsequent to decree. The procedure in this respect would be the same as in the case of any step taken under Rules 12 and 13.

MR. GOPALASWAMIENGAR brought to notice that at the time of passing the decree the court would call upon the judgment-debtor to furnish security. If security was not furnished, then the court might either order attachment or declare a charge upon the property. Rule 12 related to attachment of agricultural produce and Rule 13 to attachment of immovable property by small cause courts. Under the Civil Procedure Code, no small cause court could attach immovable property and so this was a vital point on which the amendment would render the Regulation far more stringent than the provision in the Civil Procedure Code.

THE FIRST MEMBER (*Rajamantrapravina Diwan Bahadur* K. MATTHAN) agreed that it was not the intention of the Government to place the judgment-debtor in a worse position than what the Civil Procedure Code contemplated and pointed out that there was a printing mistake in clause 5 (3) of the Bill copies of which had been circulated to members. Instead of the words "Rules 12 and 13," there should have been "Rules 5 to 12."

MR. GOPALASWAMIENGAR then said that even Rule 12 could not be

included in that clause. The object of the amendment was that agricultural produce should be made attachable and this object would be frustrated if Rule 12 also was included in that clause.

MR. K. MATTHAN replied that that was however a matter of detail which could be dealt with in the select committee.

MR. GOPALASWAMIENGAR next referred to clause 14 and said that another provision could have been included in the Bill under discussion on the lines of the Agriculturists' Relief Act which had been recently introduced in the United Provinces: that even if the judgment-debtor committed default in repaying the decree amount, the courts would see that the property attached could not be auctioned for some time in case it was found that the default was due to what might be called an "agricultural calamity."

MR. K. MATTHAN observed that even now there was nothing to compel the courts to order immediate repayment.

MR. GOPALASWAMIENGAR feared that the law would lead to difficulties without an express provision in favour of grant of time for repayment even after the decree.

MR. K. MATTHAN observed that on the whole the proposed measure was fairly liberal and the courts could exercise a certain amount of discretion in all those matters.

MR. K. T. BHASHYAM AIYANGAR said that on the whole the Bill should be accepted as it sought to remove some of the defects in the existing Regulation. First, there was no provision at present empowering the courts, while passing decrees, to order the recovery of the dues in instalments. For want of such a provision, they were directing that at the time of the execution of the decree, the party concerned might seek permission to repay in instalments. Under the proposed amendment, the courts would be empowered to direct payment by instalments while passing the decree. Not only that. In fixing the number of instalments, the courts would be required to take into consideration the period that the loan had been outstanding and also the repaying capacity of the judgment-debtor. That was a very great improvement over the existing Regulation so far as debtors were concerned. But there were improvements from the point of view of creditors also, as the courts would be empowered to direct that the entire amount of loan be recoverable if the judgment-debtor failed to pay two consecutive instalments. Such a provision had been necessitated by the circumstance that, after the introduction of the Agriculturists' Relief Regulation, body warrants were not allowed and the creditors could not even proceed on the property of the debtors and there was some scope for raiyats to deceive their creditors, and money-lenders were hesitating to loan out monies to raiyats for fear that it would not be possible for them to recover their dues. The proposed amendments would give some security to creditors and that would result in enabling needy agriculturists to raise loans. For all these reasons he said that it was necessary to pass the amendments.

At the same time he said he was in agreement with Mr. Guruva Reddy that dwelling houses of the raiyats should be exempted from attachment and that it should not be made obligatory for the courts to order payment of future interest. Very heavy interest might have been paid by the party in the past and any future interest might appear to the court unnecessary. Even if it was considered necessary to order payment of interest, he wanted that it should be stipulated that the rate should not exceed 6 per cent.

Next, the speaker was not in favour of exempting co-operative societies from the operation of the provisions of the Regulation on the ground that that would go against the main principles of the Agriculturists' Relief Regulation itself. Whatever the faults of the agriculturist, he was passing through a critical time and was unable to repay even small dues. If his properties were proceeded against at such a time, he would be ruined. It might be that co-operative societies,

being institutions managed by directors who had no personal interests or prejudices, would not try to ruin the debtors. But still, if the amendment was passed, the directorate or the secretary of any society might give a lot of trouble to them.

If these points were conceded, the Bill as amended would be a great improvement over the existing Regulation.

MR. L. VEMA REDDY enquired whether the amendment would apply to loans issued by the Government also. He was personally of opinion that there was no justification to treat monies lent by Government in a different way. It was usual for needy persons to be too ready to borrow but too unwilling to repay. It was no doubt to be that money-lenders should not cause unnecessary hardships to debtors, but at the same time the debtors should also see that they promptly repaid their debts. He however agreed that the suggestions made by Mr. Guruva Reddy should be accepted. With these observations, he also supported the Bill.

MR. V. V. IYER said that under the proposed amendment there would be provision for creditors proceeding against the lands of judgment-debtors. That would not be in the interests of agriculturists. Once the lands were auctioned, agriculturists would have nothing to fall back upon. With a view to save them from that predicament, he suggested that it was best to restrict attachment and sale only to that portion of the property which would be sufficient to fetch the amount decreed. He was also in favour of dwelling houses of agriculturists being exempted from attachment.

MR. JATHARE NAIK said that in spite of the introduction of the Agriculturists' Relief Regulation, the agriculturists had been unable to get over their difficulties. If they did not pay back their dues, it was not with any motive to deceive their creditors but because they had absolutely no means of repayment. He thought it was too early to amend the Regulation as proposed and suggested that the existing Regulation should work for some time more.

MR. S. K. VENKATARANGA IYENGAR felt happy that the Government had proposed the much needed amendments under discussion. The amendments were in the interests of both agriculturists and money-lenders. The position after the introduction of the Agriculturists' Relief Regulation was that even agriculturists paying large amounts of *kandayam* could not get any loans for carrying on their agricultural operations because money-lenders had no securities upon which they could lend and against which they could proceed in execution. If the enactment had been introduced after creating sufficient credit facilities for the agriculturist, it would have been all right. But the Government had not done so, with the result that the agriculturist found himself helpless. The amendment would give relief to both the parties in that the agriculturist could raise loans on the security of his lands and the money-lender could advance loans on the securities offered.

He did not agree with Mr. Bhashyam Aiyangar in the view that co-operative societies should not be exempted from the purview of this Regulation. The object of the co-operative movement was to encourage thrift and if the societies were brought within the compass of the Agriculturists' Relief Regulation, there would be a set-back to the movement altogether and private money-lenders would again begin to take all needy persons into their own clutches. It was therefore very necessary and reasonable to exempt the co-operative societies from the operation of the provisions of the Regulation.

Incidentally, he referred to another point. At present, for the purposes of the Regulation, an agriculturist had been defined as a man getting an income of Rs. 500 or more from land. It was not clear whether Rs. 500 was to be the minimum before or after paying the *kandayam* due on land. In Bombay, for example, it had been stipulated that the minimum was to be the net income, *i.e.*, gross income *less kandayam*. He thought that it would be well if the same procedure was followed in Mysore also.

With these remarks, he supported the measure before the House.

MR. H. M. CHANNABASAPPA also supported the Bill in general, but he was not in favour of granting exemptions to co-operative societies as proposed.

MR. T. MARIAPPA said that the definition of the word "agriculturist" was too broad and different courts were giving different interpretations to it. In some cases even school masters who merely held leases in respect of agricultural lands were being given the benefit of this definition even though they happened to live in cities throughout the year. He thought it desirable to make the term applicable only to *bona fide* agriculturists. In the next place, he wanted that all co-operative societies should be exempted from the operation of the provisions of the Agriculturists' Relief Regulation.

He agreed that while hard-hit agriculturists needed special relief, there might be some raiyats who could afford to repay all the dues, provided the courts passed decrees to that effect. For this reason he agreed that courts should be given the discretion to order repayment either in instalments or in a lump and that the discretion should be exercised with regard to the repaying capacity of the debtor concerned. Subject to these observations he said that he was in general agreement with the amendments proposed.

MR. TUDKI RAMANNA GOWDA said that just as the Government had proposed to exempt co-operative societies from the operation of the Regulation, exemption should be granted in respect of Government loans also. He also suggested that in the case of attachments, only the land and not the crop standing thereon should be attached. He was of opinion that dwelling houses of agriculturists should be exempted from attachment.

With these observations, he supported the measure.

MR. K. P. CHANNABASAPPA said that it would be very hard for a raiyat if his lands were attached and sold for default which might have been due to causes beyond his control. In such cases he suggested that more time ought to be given for repayment and the amendment suitably modified to that effect. He added that the suggestions made by Mr. Guruva Reddy were very reasonable and should be accepted.

MR. N. SIDDALINGA DEVARU also supported the measure before the House as it safeguarded the interests of both debtors and creditors. He added that Mr. Guruva Reddy's suggestions should also be accepted, but that co-operative societies must be given exemption from the operation of the provisions of the enactment.

MR. PUTTASWAMI GOWDA said that, as many of the members of the Assembly were money-lenders, they were supporting the Bill with a view to safeguard their own interests. As a result of the introduction of the Agriculturists' Relief Regulation, the raiyats were not able to raise loans. This, he thought, was a blessing in disguise in that they were being compelled to practice thrift. The greater the facilities for raising loans, the greater would be the temptation to contract debts. The amendments under discussion would create fresh facilities for borrowing, and raiyats taking advantage of them were sure to be ruined. For this reason he much rather preferred the present Regulation, under which agriculturists were unable to raise loans, to continue to be in force. But as regards those who had already contracted debts, he was not in favour of the courts being given the discretion to decide the question of instalments. He suggested that it should be laid down that the first instalment would fall due one year after the date of the decree.

MR. M. SUBBAIYA said that the provision in respect of declaring a charge on agricultural land in cases where repayment by instalments was ordered should be removed. He was also not in favour of exempting co-operative societies from the operation of the provisions of the Regulation.

MR. K. MATTHAN stated that all the suggestions made by the members would be considered in the Legislative Council.

The general principles of the Bill were then put to vote and *passed* by a large majority.

PRIVATE BILL.

1. The Mysore Debtors' Bill.

(For statement of General Principles, the Bill proper and the statement of objects and reasons, please see Appendix II.)

MR. K. T. BHASHYAM AIYANGAR, in explaining the general principle of the Bill, said that the present law rendering a debtor liable to imprisonment was too stringent and should be modified. By putting the debtor into prison, the money-lender would not gain anything. Imprisonment was a punishment fittingly to be given to a criminal. Failure to repay monies was a civil offence, and there was no justice in imprisoning a man who failed to repay his loan. It might be argued that in the absence of a fear of that drastic punishment many debtors might try to deceive their creditors. That aspect of the matter had been discussed by many committees who had come to the conclusion that such people were after all not many. Ordinarily, persons borrowing money would always try to repay it, sooner or later.

Continuing, he said that this was not a new subject. So long back as 1871, the Government of India appointed a committee to investigate into the matter and as a result of the recommendations of that committee, women were exempted from the punishment of imprisonment for non-payment of dues. That exemption was to be found in Section 56 of the Civil Procedure Code. That was nothing but a humanitarian provision. The same consideration prevailed in the Agriculturists' Relief Regulation also under which agriculturists were exempted from imprisonment for failing to repay monies due. It was high time that this was recognised as a general principle applicable to all legislation in force at the present day. In many advanced countries this kind of punishment had been abolished. According to Halsbury's "Laws of England, Vol. XIV," even Englishmen who were called a nation of shop-keepers and who generally did not wish to forego their dues, had done away with this sort of punishment except in special cases like borrowing money in the names of minors and misappropriating it. Even in regard to such special cases, agitation was going on that such drastic punishment was not warranted. But so far as the point under discussion was concerned, it was generally agreed that it would be barbarous to treat a civil wrong-doer like a criminal. It would do credit to the Model State of Mysore to fall in with that opinion. If a man was arrested, his relations would wherever possible be compelled to pay on his behalf and that would amount to blackmailing. Or, he himself would have to go and borrow money from some other money-lender and once again expose himself to similar risks at the hands of such lender. If such a position was avoided, the self-respect of the man would be safeguarded. A similar Bill was at present engaging the consideration of the Government of India, and Mysore, which was in advance of other administrations in many respects, would be leading the way in this matter also by adopting this measure immediately. In this view, he hoped that the Assembly would give its wholehearted support to the measure and thus enhance its own reputation as well as that of the State.

In supporting the Bill, MR. C. N. NARASINGA RAO said that this was a very simple measure and there was nothing in it which would prove harmful to any one. Generally, no one would borrow money with the object of deceiving the creditor. If for any reason a person failed to repay his dues, then, under the law in force at present, he would have to go to jail. But by being sent to jail, it was not he alone that suffered but all the members of his family and other dependants. Secondly, if the debtor applied for insolvency, he might escape imprisonment and seek protection of the court from further harassment at the hands of his creditors. At present, all women and all agriculturists were enjoying exemption and the people left out were